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OFFICE OF PETITIONS

In re Application of :
David A. Matthews, et. al. :
Application No. 10/658,786 :
Filed: September 9, 2003 :
Attorney Docket No. MSFT121179 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 18, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 7, 2006. A Notice of Abandonment was mailed on February 20, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Gary D. Fedorochko appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. However, if Mr. Fedorochko desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is GRANTED.

Since this application is not a utility or plant application filed on or before June 8, 1995, the Terminal Disclaimer that accompanied the petition filed on September 18, 2007 is unnecessary and the \$130 fee will be refunded to petitioner's deposit account.

The application file is being referred to Technology Center Art Unit 2174 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

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